IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELVTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 13667 of 2004

Between:

1. S.Malla Reddy, S/o S.Venkat Reddy,
   H.No.13-6-343, Ramsinghpura, Karwan, Hyderabad-67.
2 K.Rajender Reddy, S/o K.Narsi Reddy,
   H.No.6-124, Bhavani Nagar, Opp:Santosh Nagar, Hyderabad-659
3 B.Sravan Kumar, S/o late B.Kondaiah,
   H.No.6-3-172, Prem Nagar, Khairthabad, Hyderabad-4.
4 T.Krishna, S/o T.Moghlaiah,
   H.No.F/14, 2-4-761, Ramgopalpet, Nallagutta, Secunderabad-500 003.
5 M.Raju, S/o M.Rajaiah,
   H.No.18-7-455/189, Patel Nagar, Gowlipura, Uppuguda, Hyderabad-53.

..... PETITIONERS

AND

1 The Director, Professor G.Rami Reddy Centre for Distance Education,

Under Open University System, Osmania University, Hyderabad.
2 The Registrar, Osmania University, Osmania University Campus,

Hyderabad.
3 The Commissioner for Higher Education, Govt. of A.P., Hyderabad.
4 The Principal Secretary to Government,

In-charge of Higher Education, Government of Andhra Pradesh,

Hyderabad.
5 The Controller of Examinations, Osmania University, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ or order or direction particularly one in the nature of writ of mandamus

declaring the action of the respondents in refusing to receive the applications of the petitioners to write the Supplementary Examinations to be held in the month of September/October, 2004 consequently directing the respondents to receive the applications of the petitioners herein permitting them to write the B.A.Degree Supplementary Examinations under the Distance Education Programme to be held in the month of September/October 2004.

Counsel for the Petitioner:MR.A.HANUMANTHA REDDY

Counsel for the Respondent Nos.1, 2 & 5 : MR.DEEPAK BHATTACHARJEE

Counsel for the Respondent Nos.3 and 4: Assistant Government Pleader for Higher Education.

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.13667 OF 2004

ORDER:

The five petitioners herein got registered as candidates during the academic year 1994-1996 for Graduate programme under distance education mode offered by Osmania University, Hyderabad. They are required to pass in all eighteen subjects. However, they could not complete all the eighteen papers. Petitioners 1 and 2 have yet to complete one paper each and petitioners 3 to 5 have to complete two papers each so as to qualify for the award of Degree by the University. When the University announced B.A. Degree Supplementary Examinations scheduled in October, 2004, an intending candidate has to make an application with late fee on or before 9.8.2004. The petitioners approached first respondent with necessary applications, but first respondent refused to accept the applications for admission to B.A. Degree Supplementary Examinations, as the distance education under Open University system was discontinued. The petitioners contend that the second respondent addressed all the Principals of the Colleges clarifying that Annual 2004 Special Examinations should be last chance for those who joined different courses of study during various academic years. The petitioners also further contend that those who joined the course during 1994-1995 and 1996-97, the year of clearing backlog is 2003-2004. But, the University did not conduct any examination during March/April 2004 for the distance education students thereby discriminating the petitioners. Petitioners therefore filed the present Writ Petition seeking a declaration that the action of the respondents in refusing to receive the applications of the petitioners for supplementary examinations to be held in September/October, 2004 is illegal and arbitrary and for a consequential direction to respondents to receive the applications of the petitioners and permit them to appear in B.A. Degree Supplementary Examinations under distance education programme.

The Registrar of the Osmania University filed a counter affidavit on behalf of

respondents 1, 2 and 5. In brief, the averments in the counter affidavit are as follows. The Standing Committee of Academic Senate in its meeting held on 13.2.2004 took a decision which was communicated to all the Principals vide their letter dt.17.2.2004 informing that annual 2004 special examinations will be last chance for those who joined different courses of study during various academic years. The University has already given one time chance in annual 2003 special examinations. The students admitted to different courses prior to period indicated in the letter dt.17.2.2004 are not eligible to appear for backlog papers. The petitioners have not completed the course of study within double duration of the course and therefore they are not eligible as their admission is forfeited for not completing the course within a period of double duration of the course. If the University has discontinued distance education programme only after giving vide publicity of its decision and after providing petitioners with sufficient opportunity of completing backlog papers, the question that the respondents have not provided any opportunity to other students and it amounts to discrimination, does not arise. The said decision was taken as per the directions of the University Grants Commission (UGC) which ordered discontinuation of external under-graduate and post graduate courses from 1996 onwards. The petitioners have already availed last chance by appearing in annual 2003 as well as supplementary 2003 examinations and therefore it is not permissible for them to again seek another opportunity. The University is governed by provisions of the A.P. Universities Act, 1991 and various regulations framed thereunder and the action was taken strictly in accordance with these Regulations.

Learned counsel for the petitioners, Sri A.Hanumantha Reddy submits that when the petitioners joined the course there was no restriction as to number of years during which the course has to be completed and therefore the petitioners cannot be denied the chance of appearing examination after a period of six years. While discontinuing distance education programme no notice was published and therefore it is incumbent on the part of the University to conduct the examinations to enable the petitioners to complete backlog papers. The abrupt discontinuation of the course would be arbitrary and would deprive the petitioners of an opportunity of completing the course.

Learned Standing Counsel for the Osmania University, Sri Deepak Bhattacharji, contends that before discontinuing distance education programme, the University issued wide publicity informing all those candidates about the two last chances during annual 2003 and supplementary 2003 examinations, that the programme was discontinued as per the directions of the UGC and that the Rules and Regulations that are applicable to regular students are applicable to distance education students. Lastly he would contend that the distance education programme has been discontinued since 1996 onwards though examinations are conducted subsequently and therefore the decision of the academic body cannot be interfered with lightly. He also placed reliance on unreported judgment of Division Bench of this Court in Writ Appeal No.907 of 1997 and batch, dt.7.10.1997 in support of the contention that discontinuation of external examinations without notice is valid.

The only question that falls for consideration is whether the petitioners have any right to seek Writ of Mandamus compelling Osmania University to conduct

examination as last chance to petitioners who could not complete their B.A. ?

The petitioners have annexed an application form-cum-prospectus for admission to B.A/B.Com., under Open University system offered by Centre for Distance Education (CDE), first respondent herein. The Osmania University established the Institute of Correspondence Courses (renamed as Centre for Distance Education) in the year 1977 providing facilities for correspondence-cum-contact programmes at the first degree level and provided similar facilities for post-graduate from the academic year 1987-88. B.A 3rd Year Degree course is offered under Open University system which require a pass in the eligibility test conducted by the CDE. A candidate who is qualified in the eligibility test shall apply to the Director of CDE for admission into Degree course with necessary fees and other documents. The course instruction is by way of study material sent by CDE to a candidate paying the entire prescribed fee for the year. After completion of the course, the University will conduct examinations at the end of first year, second year and third year course with the provision of annual and supplementary university examinations. Paragraph VII of the prospectus deals with university examinations. As per paragraph VII (A)(2) of the Rules and Regulations including award of division that are applicable to regular students are applicable to regular students of the centre, but there is no detention system in CDE system.

As per the policy decision taken by the University, candidates admitted to different courses of study have to complete the course within the double duration of the said course, that is to say one year course in two years, two years course in four years, three years course in six years, four years course in eight years, and five years course in ten years. Therefore, whether he is regular B.A. student or distance education B.A. student, a candidate has to complete the course within a period of six years, as otherwise, he will stand to loose an opportunity of getting qualified for award of Degree. However, the Standing Committee of Academic Senate at its meeting held on 11th and 16th January 2002 took a decision to give one time chance to clear backlog papers to such of those candidates who have completed the course of study in double duration, but still have some backlog papers by annual 2003. It was also decided that thereafter no candidate will be allowed to clear backlog papers beyond the time limit prescribed. Subsequently on 13.2.2004 the Standing Committee considered the request of some of the students who have completed the course within the course period and decided to grant last chance to clear backlog papers within the period of two years after prescribed period of study, i.e., double duration of the course. The same was communicated to all the Principals. CDE of the University issued a press note on 20.1.2003, which reads as under:

Candidates of Open University System, OU B.A./B.Com. I, II & III Year, who have appeared and failed under Open University System the last date for payment of Examination Fee is:

Without late fee : 31st January, 2003

With late fee of Rs.100/- : 7th February, 2003

Only two examinations will be conducted for the benefit of B.A./B.Com. students under Open University System. The UG (OUS) Annual 2003 and Supplementary 2003 Examinations will be treated as special examinations conducted in March 2003 and October, 2003.

The examination forms and Newsletter has already been sent to the candidates who have failed in Supplementary 2001 Exams. Candidates who have not received the above application due to postal delay can obtain the same from PGRR CDE, OU, by paying a demand draft for Rs.20/- in favour of the Director, PGRRCDE, OU, along with a self addressed cover.

A reading of the prospectus, the press note dated 20.1.2003 and the letter dt.17.2.2004 addressed to all the Principals, would belie the contention that distance education has been abruptly discontinued. Further, the learned Standing Counsel brought to the notice of this Court that all the petitioners appeared for annual 2003 as well as supplementary 2003 examinations and they could not complete the course. Therefore, they cannot be said to have any right to compel the University to conduct special examination for them. Of course, it is always open to the University to take such decision if Rules so framed.

It is well settled that in academic matters, the scope of judicial review is very limited. Ordinarily, academic decisions cannot be interfered with lightly. The decision must be left to the experts who are entrusted with the administration of education because such matters are not ordinarily justiciable. A reference may be made to the decisions of the Supreme Court in **University of Mysore v. Govinda Rao, Maharashtra S.B.O.S. and H.S.Education v. Paritosh**, and **State of Uttar Pradesh v. D.K.Singh**. It is not necessary to extract the relevant observations from the first two cases. In **State of Uttar Pradesh v. D.K.Singh** (supra), the MBBS students of Motilal Nehru Medical College filed a writ petition before the Allahabad High Court seeking a direction to the authorities to advance the final year MBBS examinations to July, 1986 instead of scheduled date in January 1987 when the examinations were scheduled. It was contended that if the examinations are conducted in January 1987, students would not be able to apply for admission to post-graduate course, which commences in March, 1987. The High Court allowed the Writ Petition on the ground of unreasonableness. The Supreme Court reversed the judgment of the High Court and observed as under:

…We think that the High Court was not justified in interfering in a matter of such an academic nature as this. The question whether a course of study should commence in January or July of the year in a Post-graduate Medical Institution is dependant on number of factors like availability of seats, availability of beds in the hospital, availability of teachers, laboratories and equipment and perhaps a host of other factors with which we are not familiar. Ordinarily, it should, therefore be a matter best leave to the University. When an academic year should commence and when it should end is eminently a matter for the education authorities and not for the Court. One cannot dislocate the time schedule of the University merely for the convenience of a few students.

The University has taken a decision having regard to the directions issued by the University Grants Commission. Before discontinuing the course, the University has also considered the hardship of all the students and gave last chance. The petitioners, who admittedly joined the distance education course during the period 1994-96 were required to complete the course in the year 2000-2002. They could not do so. Though they appeared in annual 2003 as well as supplementary 2003 examinations, still they could not pass all the papers. The equity considerations also would not favour the petitioners.

The Writ Petition is devoid of merit and is accordingly dismissed without any order as to costs.

_____

(V.V.S.RAO, J)

12.10.2004

bnr

To

1 The Director, Professor G.Rami Reddy Centre for Distance Education,

Under Open University System, Osmania University, Hyderabad.
2 The Registrar, Osmania University, Osmania University Campus,

Hyderabad.
3 The Commissioner for Higher Education, Govt. of A.P., Hyderabad.
4 The Principal Secretary to Government,

In-charge of Higher Education, Government of Andhra Pradesh,

Hyderabad.
5 The Controller of Examinations, Osmania University, Hyderabad.

6 2CCs to G.P.for Higher Education, High Court Bldgs.,

Hyderabad (OUT)

7 2CD copies